

AMENDMENTS TO THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT
OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCE-
DURE THAT HAVE BEEN ADOPTED BY THE SUPREME COURT



APRIL 14, 2022.—Referred to the Committee on the Judiciary and ordered
to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

SUPREME COURT OF THE UNITED STATES,
Washington, DC, April 11, 2022.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: I have the honor to submit to the Congress the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2075 of Title 28, United States Code.

Accompanying the amended rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 18, 2021; a redline version of the rules with committee notes; an excerpt from the September 2021 report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and an excerpt from the May 2021 report of the Advisory Committee on Bankruptcy Rules.

Sincerely,

JOHN G. ROBERTS, Jr.
Chief Justice.

April 11, 2022

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Bankruptcy Procedure are amended to include amendments to Rules 1007, 1020, 2009, 2012, 2015, 3002, 3010, 3011, 3014, 3016, 3017.1, 3018, 3019, 5005, 7004, and 8023, and to add new Rule 3017.2.

[*See infra* pp. ___ ___.]

2. The foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 2022, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. THE CHIEF JUSTICE is authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Bankruptcy Procedure in accordance with the provisions of Section 2075 of Title 28, United States Code.

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE**

**Rule 1007. Lists, Schedules, Statements, and Other
Documents; Time Limits**

* * * * *

(b) SCHEDULES, STATEMENTS, AND
OTHER DOCUMENTS REQUIRED.

* * * * *

(5) An individual debtor in a chapter 11 case (unless under subchapter V) shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form.

* * * * *

(h) INTERESTS ACQUIRED OR ARISING AFTER PETITION. If, as provided by § 541(a)(5) of the Code, the debtor acquires or becomes entitled to acquire any interest in property, the debtor shall within 14 days after the information comes to the debtor's knowledge or within such further time the court may allow, file a supplemental

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schedule in the chapter 7 liquidation case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual debt adjustment case. If any of the property required to be reported under this subdivision is claimed by the debtor as exempt, the debtor shall claim the exemptions in the supplemental schedule. This duty to file a supplemental schedule continues even after the case is closed, except for property acquired after an order is entered:

(1) confirming a chapter 11 plan (other than one confirmed under § 1191(b)); or

(2) discharging the debtor in a chapter 12 case, a chapter 13 case, or a case under subchapter V of chapter 11 in which the plan is confirmed under § 1191(b).

* * * * *

Rule 1020. Chapter 11 Reorganization Case for Small Business Debtors**(a) SMALL BUSINESS DEBTOR**

DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor and, if so, whether the debtor elects to have subchapter V of chapter 11 apply. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor and, if so, whether the debtor elects to have subchapter V of chapter 11 apply. The status of the case as a small business case or a case under subchapter V of chapter 11 shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.

(b) OBJECTING TO DESIGNATION. The United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) no later than 30 days after the conclusion of the meeting of

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creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later.

(c) PROCEDURE FOR OBJECTION OR DETERMINATION. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on: the debtor; the debtor's attorney; the United States trustee; the trustee; the creditors included on the list filed under Rule 1007(d) or, if a committee has been appointed under § 1102(a)(3), the committee or its authorized agent; and any other entity as the court directs.

Rule 2009. Trustees for Estates When Joint Administration Ordered

(a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code.

(b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code.

(c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.

* * * * *

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(2) *Chapter 11 Reorganization Cases.* If the appointment of a trustee is ordered or is required by the Code, the United States trustee may appoint one or more trustees for estates being jointly administered in chapter 11 cases.

* * * * *

**Rule 2012. Substitution of Trustee or Successor
Trustee; Accounting**

(a) TRUSTEE. If a trustee is appointed in a chapter 11 case (other than under subchapter V), or the debtor is removed as debtor in possession in a chapter 12 case or in a case under subchapter V of chapter 11, the trustee is substituted automatically for the debtor in possession as a party in any pending action, proceeding, or matter.

* * * * *

Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status

(a) TRUSTEE OR DEBTOR IN POSSESSION.

A trustee or debtor in possession shall:

(1) in a chapter 7 liquidation case and, if the court directs, in a chapter 11 reorganization case (other than under subchapter V), file and transmit to the United States trustee a complete inventory of the property of the debtor within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;

(2) keep a record of receipts and the disposition of money and property received;

(3) file the reports and summaries required by § 704(a)(8) of the Code, which shall include a statement, if payments are made to employees, of the amounts of deductions for all taxes required to be withheld or paid for and in behalf of

employees and the place where these amounts are deposited;

(4) as soon as possible after the commencement of the case, give notice of the case to every entity known to be holding money or property subject to withdrawal or order of the debtor, including every bank, savings or building and loan association, public utility company, and landlord with whom the debtor has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the debtor, except that notice need not be given to any entity who has knowledge or has previously been notified of the case;

(5) in a chapter 11 reorganization case (other than under subchapter V), on or before the last day of the month after each calendar quarter during which there is a duty to pay fees under 28 U.S.C.

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§ 1930(a)(6), file and transmit to the United States trustee a statement of any disbursements made during that quarter and of any fees payable under 28 U.S.C. § 1930(a)(6) for that quarter; and

(6) in a chapter 11 small business case, unless the court, for cause, sets another reporting interval, file and transmit to the United States trustee for each calendar month after the order for relief, on the appropriate Official Form, the report required by § 308. If the order for relief is within the first 15 days of a calendar month, a report shall be filed for the portion of the month that follows the order for relief. If the order for relief is after the 15th day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month. Each report shall be filed no later than 21 days after the last day of the calendar month following the month covered by the report. The

obligation to file reports under this subparagraph terminates on the effective date of the plan, or conversion or dismissal of the case.

(b) TRUSTEE, DEBTOR IN POSSESSION, AND DEBTOR IN A CASE UNDER SUBCHAPTER V OF CHAPTER 11. In a case under subchapter V of chapter 11, the debtor in possession shall perform the duties prescribed in (a)(2)–(4) and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the debtor’s property within the time fixed by the court. If the debtor is removed as debtor in possession, the trustee shall perform the duties of the debtor in possession prescribed in this subdivision (b). The debtor shall perform the duties prescribed in (a)(6).

(c) CHAPTER 12 TRUSTEE AND DEBTOR IN POSSESSION. In a chapter 12 family farmer’s debt adjustment case, the debtor in possession shall perform the duties prescribed in clauses (2)–(4) of subdivision (a) of this

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rule and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the property of the debtor within the time fixed by the court. If the debtor is removed as debtor in possession, the trustee shall perform the duties of the debtor in possession prescribed in this subdivision (c).

(d) CHAPTER 13 TRUSTEE AND DEBTOR.

(1) *Business Cases.* In a chapter 13 individual's debt adjustment case, when the debtor is engaged in business, the debtor shall perform the duties prescribed by clauses (2)–(4) of subdivision (a) of this rule and, if the court directs, shall file and transmit to the United States trustee a complete inventory of the property of the debtor within the time fixed by the court.

(2) *Nonbusiness Cases*. In a chapter 13 individual's debt adjustment case, when the debtor is not engaged in business, the trustee shall perform the duties prescribed by clause (2) of subdivision (a) of this rule.

(e) FOREIGN REPRESENTATIVE. In a case in which the court has granted recognition of a foreign proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 14 days after the date when the representative becomes aware of the subsequent information.

(f) TRANSMISSION OF REPORTS. In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of other reports shall be mailed to the creditors, equity security holders, and indenture trustees. The court may also direct the publication of summaries of any such reports. A copy of

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every report or summary mailed or published pursuant to this subdivision shall be transmitted to the United States trustee.

Rule 3002. Filing Proof of Claim or Interest

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(c) TIME FOR FILING. In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, a proof of claim is timely filed if it is filed not later than 70 days after the order for relief under that chapter or the date of the order of conversion to a case under chapter 12 or chapter 13. In an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the order for relief under that chapter is entered. But in all these cases, the following exceptions apply:

* * * * *

(6) On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that the notice was insufficient under the

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circumstances to give the creditor a reasonable time
to file a proof of claim.

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Rule 3010. Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13

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(b) CASES UNDER SUBCHAPTER V OF CHAPTER 11, CHAPTER 12, AND CHAPTER 13. In a case under subchapter V of chapter 11, chapter 12, or chapter 13, no payment in an amount less than \$15 shall be distributed by the trustee to any creditor unless authorized by local rule or order of the court. Funds not distributed because of this subdivision shall accumulate and shall be paid whenever the accumulation aggregates \$15. Any funds remaining shall be distributed with the final payment.

Rule 3011. Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13

The trustee shall file a list of all known names and addresses of the entities and the amounts which they are entitled to be paid from remaining property of the estate that is paid into court pursuant to § 347(a) of the Code.

Rule 3014. Election Under § 1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case

An election of application of § 1111(b)(2) of the Code by a class of secured creditors in a chapter 9 or 11 case may be made at any time prior to the conclusion of the hearing on the disclosure statement or within such later time as the court may fix. If the disclosure statement is conditionally approved pursuant to Rule 3017.1, and a final hearing on the disclosure statement is not held, the election of application of § 1111(b)(2) may be made not later than the date fixed pursuant to Rule 3017.1(a)(2) or another date the court may fix. In a case under subchapter V of chapter 11 in which § 1125 of the Code does not apply, the election may be made not later than a date the court may fix. The election shall be in writing and signed unless made at the hearing on the disclosure statement. The election, if made by the majorities required by § 1111(b)(1)(A)(i), shall be binding on all members of the class with respect to the plan.

Rule 3016. Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

(a) IDENTIFICATION OF PLAN. Every proposed plan and any modification thereof shall be dated and, in a chapter 11 case, identified with the name of the entity or entities submitting or filing it.

(b) DISCLOSURE STATEMENT. In a chapter 9 or 11 case, a disclosure statement, if required under § 1125 of the Code, or evidence showing compliance with § 1126(b) shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information under § 1125(f)(1). If the plan is intended to provide adequate information under § 1125(f)(1), it shall be so designated, and Rule 3017.1 shall apply as if the plan is a disclosure statement.

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(d) STANDARD FORM SMALL BUSINESS DISCLOSURE STATEMENT AND PLAN. In a small

business case or a case under subchapter V of chapter 11, the court may approve a disclosure statement and may confirm a plan that conform substantially to the appropriate Official Forms or other standard forms approved by the court.

Rule 3017.1. Court Consideration of Disclosure Statement in a Small Business Case or in a Case Under Subchapter V of Chapter 11

(a) **CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT.** In a small business case or in a case under subchapter V of chapter 11 in which the court has ordered that § 1125 applies, the court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement filed in accordance with Rule 3016. On or before conditional approval of the disclosure statement, the court shall:

- (1) fix a time within which the holders of claims and interests may accept or reject the plan;
- (2) fix a time for filing objections to the disclosure statement;
- (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(4) fix a date for the hearing on confirmation.

* * * * *

Rule 3017.2. Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement

In a case under subchapter V of chapter 11 in which § 1125 does not apply, the court shall:

(a) fix a time within which the holders of claims and interests may accept or reject the plan;

(b) fix a date on which an equity security holder or creditor whose claim is based on a security must be the holder of record of the security in order to be eligible to accept or reject the plan;

(c) fix a date for the hearing on confirmation; and

(d) fix a date for transmitting the plan, notice of the time within which the holders of claims and interests may accept or reject it, and notice of the date for the hearing on confirmation.

Rule 3018. Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case

(a) ENTITIES ENTITLED TO ACCEPT OR REJECT PLAN; TIME FOR ACCEPTANCE OR REJECTION. A plan may be accepted or rejected in accordance with § 1126 of the Code within the time fixed by the court pursuant to Rule 3017, 3017.1, or 3017.2. Subject to subdivision (b) of this rule, an equity security holder or creditor whose claim is based on a security of record shall not be entitled to accept or reject a plan unless the equity security holder or creditor is the holder of record of the security on the date the order approving the disclosure statement is entered or on another date fixed by the court under Rule 3017.2, or fixed for cause after notice and a hearing. For cause shown, the court after notice and hearing may permit a creditor or equity security holder to change or withdraw an acceptance or rejection. Notwithstanding objection to a claim or interest, the court after notice and

hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan.

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Rule 3019. Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case

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(b) MODIFICATION OF PLAN AFTER CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If the debtor is an individual, a request to modify the plan under § 1127(e) of the Code is governed by Rule 9014. The request shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed to file objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee, together with a copy of the proposed modification. Any objection to the proposed modification shall be filed and served on the

debtor, the proponent of the modification, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee.

(c) MODIFICATION OF PLAN AFTER CONFIRMATION IN A SUBCHAPTER V CASE. In a case under subchapter V of chapter 11, a request to modify the plan under § 1193(b) or (c) of the Code is governed by Rule 9014, and the provisions of this Rule 3019(b) apply.

Rule 5005. Filing and Transmittal of Papers

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(b) TRANSMITTAL TO THE UNITED STATES TRUSTEE.

(1) The complaints, notices, motions, applications, objections and other papers required to be transmitted to the United States trustee may be sent by filing with the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.

(2) The entity, other than the clerk, transmitting a paper to the United States trustee other than through the court's electronic-filing system shall promptly file as proof of such transmittal a statement identifying the paper and stating the manner by which and the date on which it was transmitted to the United States trustee.

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(3) Nothing in these rules shall require the clerk to transmit any paper to the United States trustee if the United States trustee requests in writing that the paper not be transmitted.

Rule 7004. Process; Service of Summons, Complaint

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(i) SERVICE OF PROCESS BY TITLE. This subdivision (i) applies to service on a domestic or foreign corporation or partnership or other unincorporated association under Rule 7004(b)(3) or on an officer of an insured depository institution under Rule 7004(h). The defendant's officer or agent need not be correctly named in the address – or even be named – if the envelope is addressed to the defendant's proper address and directed to the attention of the officer's or agent's position or title.

Rule 8023. Voluntary Dismissal

(a) **STIPULATED DISMISSAL.** The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any court fees that are due.

(b) **APPELLANT'S MOTION TO DISMISS.** An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP.

(c) **OTHER RELIEF.** A court order is required for any relief under Rule 8023(a) or (b) beyond the dismissal of an appeal—including approving a settlement, vacating an action of the bankruptcy court, or remanding the case to it.

(d) **COURT APPROVAL.** This rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration.



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE ROSLYNN R. MAUSKOPF
Secretary

October 18, 2021

MEMORANDUM

To: Chief Justice of the United States
Associate Justices of the Supreme Court

From: Judge Roslynn R. Mauskopf *Roslynn R. Mauskopf*

RE: TRANSMITTAL OF PROPOSED AMENDMENTS TO THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I transmit for the Court's consideration proposed amendments to Rules 1007, 1020, 2009, 2012, 2015, 3002, 3010, 3011, 3014, 3016, 3017.1, new Rule 3017.2, 3018, 3019, 5005, 7004, and 8023 of the Federal Rules of Bankruptcy Procedure, which have been approved by the Judicial Conference. The Judicial Conference recommends that the amendments be adopted by the Court and transmitted to Congress pursuant to law.

For your assistance in considering the proposed amendments, I am transmitting (i) clean and blackline copies of the amended rules along with committee notes; (ii) an excerpt from the September 2021 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and (iii) an excerpt from the May 2021 report of the Advisory Committee on Bankruptcy Rules.

Attachments

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 1007. Lists, Schedules, Statements, and Other**
2 **Documents; Time Limits**

3 * * * * *

4 (b) SCHEDULES, STATEMENTS, AND
5 OTHER DOCUMENTS REQUIRED.

6 * * * * *

7 (5) An individual debtor in a chapter 11
8 case unless under subchapter V shall file a
9 statement of current monthly income, prepared as
10 prescribed by the appropriate Official Form.

11 * * * * *

12 (h) INTERESTS ACQUIRED OR ARISING
13 AFTER PETITION. If, as provided by § 541(a)(5) of the
14 Code, the debtor acquires or becomes entitled to acquire any
15 interest in property, the debtor shall within 14 days after the

¹ New material is underlined; matter to be omitted is lined through.

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16 information comes to the debtor's knowledge or within such
17 further time the court may allow, file a supplemental
18 schedule in the chapter 7 liquidation case, chapter 11
19 reorganization case, chapter 12 family farmer's debt
20 adjustment case, or chapter 13 individual debt adjustment
21 case. If any of the property required to be reported under
22 this subdivision is claimed by the debtor as exempt, the
23 debtor shall claim the exemptions in the supplemental
24 schedule. ~~The~~ This duty to file a supplemental schedule ~~in~~
25 ~~accordance with this subdivision~~ continues even after the
26 case is closed, except for property acquired after an order is
27 entered: notwithstanding the closing of the case, except that
28 ~~the schedule need not be filed in a chapter 11, chapter 12, or~~
29 ~~chapter 13 case with respect to property acquired after entry~~
30 ~~of the order~~

31 (1) confirming a chapter 11 plan (other
32 than one confirmed under § 1191(b)); or

33 (2) discharging the debtor in a chapter 12
34 ~~case, or a~~ chapter 13 case, or a case under subchapter
35 V of chapter 11 in which the plan is confirmed under
36 § 1191(b).

37 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. As amended, subdivision (b)(5) of the rule includes an exception for subchapter V cases. Because Code § 1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.

Subdivision (h) is amended to provide that the duty to file a supplemental schedule under the rule terminates upon confirmation of the plan in a subchapter V case, unless the plan is confirmed under § 1191(b), in which case it terminates upon discharge as provided in § 1192.

1 **Rule 1020. Small Business Chapter 11 Reorganization**
2 **Case for Small Business Debtors**

3 (a) SMALL BUSINESS DEBTOR
4 DESIGNATION. In a voluntary chapter 11 case, the debtor
5 shall state in the petition whether the debtor is a small
6 business debtor and, if so, whether the debtor elects to have
7 subchapter V of chapter 11 apply. In an involuntary chapter
8 11 case, the debtor shall file within 14 days after entry of the
9 order for relief a statement as to whether the debtor is a small
10 business debtor and, if so, whether the debtor elects to have
11 subchapter V of chapter 11 apply. ~~Except as provided in~~
12 ~~subdivision (e), the~~ The status of the case as a small business
13 case or a case under subchapter V of chapter 11 shall be in
14 accordance with the debtor's statement under this
15 subdivision, unless and until the court enters an order finding
16 that the debtor's statement is incorrect.

17 (b) OBJECTING TO DESIGNATION. ~~Except~~
18 ~~as provided in subdivision (e), the~~ The United States trustee
19 or a party in interest may file an objection to the debtor's

20 statement under subdivision (a) no later than 30 days after
21 the conclusion of the meeting of creditors held under
22 § 341(a) of the Code, or within 30 days after any amendment
23 to the statement, whichever is later.

24 ~~(c) APPOINTMENT OF COMMITTEE OF~~
25 ~~UNSECURED CREDITORS. If a committee of unsecured~~
26 ~~creditors has been appointed under § 1102(a)(1), the case~~
27 ~~shall proceed as a small business case only if, and from the~~
28 ~~time when, the court enters an order determining that the~~
29 ~~committee has not been sufficiently active and~~
30 ~~representative to provide effective oversight of the debtor~~
31 ~~and that the debtor satisfies all the other requirements for~~
32 ~~being a small business. A request for a determination under~~
33 ~~this subdivision may be filed by the United States trustee or~~
34 ~~a party in interest only within a reasonable time after the~~
35 ~~failure of the committee to be sufficiently active and~~
36 ~~representative. The debtor may file a request for a~~

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37 ~~determination at any time as to whether the committee has~~
38 ~~been sufficiently active and representative.~~

39 (dc) PROCEDURE FOR OBJECTION OR
40 DETERMINATION. Any objection or request for a
41 determination under this rule shall be governed by Rule 9014
42 and served on: the debtor; the debtor's attorney; the United
43 States trustee; the trustee; the creditors included on the list
44 filed under Rule 1007(d) or, if any a committee has been
45 appointed under § 1102(a)(3), the committee or its
46 authorized agent, ~~or, if no committee of unsecured creditors~~
47 ~~has been appointed under § 1102, the creditors included on~~
48 ~~the list filed under Rule 1007(d);~~ and any other entity as the
49 court directs.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA), Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to include that option and to require a small business debtor to state in its voluntary petition, or in a statement filed within 14 days after the order for relief is

entered in an involuntary case, whether it elects to proceed under subchapter V. The rule does not address whether the court, on a case-by-case basis, may allow a debtor to make an election to proceed under subchapter V after the times specified in subdivision (a) or, if it can, under what conditions.

Former subdivision (c) of the rule is deleted because the existence or level of activity of a creditors' committee is no longer a criterion for small-business-debtor status. The SBRA eliminated that portion of the definition of "small business debtor" in § 101(51D) of the Code.

Former subdivision (d) is redesignated as subdivision (c), and the list of entities to be served is revised to reflect that in most small business and subchapter V cases there will not be a committee of creditors.

1 **Rule 2009. Trustees for Estates When Joint**
2 **Administration Ordered**

3 (a) ELECTION OF SINGLE TRUSTEE FOR
4 ESTATES BEING JOINTLY ADMINISTERED. If the
5 court orders a joint administration of two or more estates
6 under Rule 1015(b), creditors may elect a single trustee for
7 the estates being jointly administered, unless the case is
8 under subchapter V of chapter 7 or subchapter V of chapter
9 11 of the Code.

10 (b) RIGHT OF CREDITORS TO ELECT
11 SEPARATE TRUSTEE. Notwithstanding entry of an order
12 for joint administration under Rule 1015(b), the creditors of
13 any debtor may elect a separate trustee for the estate of the
14 debtor as provided in § 702 of the Code, unless the case is
15 under subchapter V of chapter 7 or subchapter V of chapter
16 11 of the Code.

17 (c) APPOINTMENT OF TRUSTEES FOR
18 ESTATES BEING JOINTLY ADMINISTERED.

19

* * * * *

20 (2) *Chapter 11. Reorganization Cases.* If
21 the appointment of a trustee is ordered or is required
22 by the Code, the United States trustee may appoint
23 one or more trustees for estates being jointly
24 administered in chapter 11 cases.

25 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. In a case under that subchapter, § 1183 of the Code requires the United States trustee to appoint a trustee, so there will be no election. Accordingly, subdivisions (a) and (b) of the rule are amended to except cases under subchapter V from their coverage. Subdivision (c)(2), which addresses the appointment of trustees in jointly administered chapter 11 cases, is amended to make it applicable to cases under subchapter V.

1 **Rule 2012. Substitution of Trustee or Successor**
2 **Trustee; Accounting**

3 (a) TRUSTEE. If a trustee is appointed in a
4 chapter 11 case (other than under subchapter V), or the
5 debtor is removed as debtor in possession in a chapter 12
6 case or in a case under subchapter V of chapter 11, the trustee
7 is substituted automatically for the debtor in possession as a
8 party in any pending action, proceeding, or matter.

9 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (a) of the rule is amended to include any case under that subchapter in which the debtor is removed as debtor in possession under § 1185 of the Code.

1 **Rule 2015. Duty to Keep Records, Make Reports, and**
2 **Give Notice of Case or Change of Status**

3 (a) TRUSTEE OR DEBTOR IN POSSESSION.

4 A trustee or debtor in possession shall:

5 (1) in a chapter 7 liquidation case and, if
6 the court directs, in a chapter 11 reorganization case
7 (other than under subchapter V), file and transmit to
8 the United States trustee a complete inventory of the
9 property of the debtor within 30 days after qualifying
10 as a trustee or debtor in possession, unless such an
11 inventory has already been filed;

12 (2) keep a record of receipts and the
13 disposition of money and property received;

14 (3) file the reports and summaries
15 required by § 704(a)(8) of the Code, which shall
16 include a statement, if payments are made to
17 employees, of the amounts of deductions for all taxes
18 required to be withheld or paid for and in behalf of

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19 employees and the place where these amounts are
20 deposited;

21 (4) as soon as possible after the
22 commencement of the case, give notice of the case to
23 every entity known to be holding money or property
24 subject to withdrawal or order of the debtor,
25 including every bank, savings or building and loan
26 association, public utility company, and landlord
27 with whom the debtor has a deposit, and to every
28 insurance company which has issued a policy having
29 a cash surrender value payable to the debtor, except
30 that notice need not be given to any entity who has
31 knowledge or has previously been notified of the
32 case;

33 (5) in a chapter 11 reorganization case
34 (other than under subchapter V), on or before the last
35 day of the month after each calendar quarter during
36 which there is a duty to pay fees under 28 U.S.C.

37 § 1930(a)(6), file and transmit to the United States
38 trustee a statement of any disbursements made
39 during that quarter and of any fees payable under 28
40 U.S.C. § 1930(a)(6) for that quarter; and

41 (6) in a chapter 11 small business case,
42 unless the court, for cause, sets another reporting
43 interval, file and transmit to the United States trustee
44 for each calendar month after the order for relief, on
45 the appropriate Official Form, the report required by
46 § 308. If the order for relief is within the first 15 days
47 of a calendar month, a report shall be filed for the
48 portion of the month that follows the order for relief.
49 If the order for relief is after the 15th day of a
50 calendar month, the period for the remainder of the
51 month shall be included in the report for the next
52 calendar month. Each report shall be filed no later
53 than 21 days after the last day of the calendar month
54 following the month covered by the report. The

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55 obligation to file reports under this subparagraph
56 terminates on the effective date of the plan, or
57 conversion or dismissal of the case.

58 (b) TRUSTEE, DEBTOR IN POSSESSION,
59 AND DEBTOR IN A CASE UNDER SUBCHAPTER V OF
60 CHAPTER 11. In a case under subchapter V of chapter 11,
61 the debtor in possession shall perform the duties prescribed
62 in (a)(2)–(4) and, if the court directs, shall file and transmit
63 to the United States trustee a complete inventory of the
64 debtor’s property within the time fixed by the court. If the
65 debtor is removed as debtor in possession, the trustee shall
66 perform the duties of the debtor in possession prescribed in
67 this subdivision (b). The debtor shall perform the duties
68 prescribed in (a)(6).

69 (~~b~~) CHAPTER 12 TRUSTEE AND DEBTOR
70 IN POSSESSION. In a chapter 12 family farmer’s debt
71 adjustment case, the debtor in possession shall perform the
72 duties prescribed in clauses (2)–(4) of subdivision (a) of this

73 rule and, if the court directs, shall file and transmit to the
74 United States trustee a complete inventory of the property of
75 the debtor within the time fixed by the court. If the debtor is
76 removed as debtor in possession, the trustee shall perform
77 the duties of the debtor in possession prescribed in this
78 ~~paragraph~~ subdivision (c).

79 (ed) CHAPTER 13 TRUSTEE AND
80 DEBTOR.

81 (1) *Business Cases*. In a chapter
82 13 individual's debt adjustment case, when
83 the debtor is engaged in business, the debtor
84 shall perform the duties prescribed by clauses
85 (2)–(4) of subdivision (a) of this rule and, if
86 the court directs, shall file and transmit to the
87 United States trustee a complete inventory of
88 the property of the debtor within the time
89 fixed by the court.

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90 (2) *Nonbusiness Cases*. In a chapter 13
91 individual's debt adjustment case, when the debtor is
92 not engaged in business, the trustee shall perform the
93 duties prescribed by clause (2) of subdivision (a) of
94 this rule.

95 ~~(d)~~ FOREIGN REPRESENTATIVE. In a case in
96 which the court has granted recognition of a foreign
97 proceeding under chapter 15, the foreign representative shall
98 file any notice required under § 1518 of the Code within 14
99 days after the date when the representative becomes aware
100 of the subsequent information.

101 ~~(e)~~ TRANSMISSION OF REPORTS. In a
102 chapter 11 case the court may direct that copies or
103 summaries of annual reports and copies or summaries of
104 other reports shall be mailed to the creditors, equity security
105 holders, and indenture trustees. The court may also direct the
106 publication of summaries of any such reports. A copy of

107 every report or summary mailed or published pursuant to this
108 subdivision shall be transmitted to the United States trustee.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) is amended to prescribe the duties of a debtor in possession, trustee, and debtor in a subchapter V case. Those cases are excepted from subdivision (a) because, unlike other chapter 11 cases, there will generally be both a trustee and a debtor in possession. Subdivision (b) also reflects that § 1187 of the Code prescribes reporting duties for the debtor in a subchapter V case.

Former subdivisions (b), (c), (d), and (e) are redesignated (c), (d), (e), and (f) respectively.

1 **Rule 3002. Filing Proof of Claim or Interest**

2 * * * * *

3 (c) TIME FOR FILING. In a voluntary chapter 7
4 case, chapter 12 case, or chapter 13 case, a proof of claim is
5 timely filed if it is filed not later than 70 days after the order
6 for relief under that chapter or the date of the order of
7 conversion to a case under chapter 12 or chapter 13. In an
8 involuntary chapter 7 case, a proof of claim is timely filed if
9 it is filed not later than 90 days after the order for relief under
10 that chapter is entered. But in all these cases, the following
11 exceptions apply:

12 * * * * *

13 (6) On motion filed by a creditor before
14 or after the expiration of the time to file a proof of
15 claim, the court may extend the time by not more
16 than 60 days from the date of the order granting the
17 motion. The motion may be granted if the court finds
18 that:

19 (A) the notice was insufficient
20 under the circumstances to give the creditor a
21 reasonable time to file a proof of claim
22 because the debtor failed to timely file the list
23 of creditors' names and addresses required by
24 Rule 1007(a); or

25 (B) ~~the notice was insufficient~~
26 ~~under the circumstances to give the creditor a~~
27 ~~reasonable time to file a proof of claim, and~~
28 ~~the notice was mailed to the creditor at a~~
29 ~~foreign address.~~

30 * * * * *

Committee Note

Rule 3002(c)(6) is amended to provide a single standard for granting motions for an extension of time to file a proof of claim, whether the creditor has a domestic address or a foreign address. If the notice to such creditor was "insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim," the court may grant an extension.

1 **Rule 3010. Small Dividends and Payments in Cases**
2 **Under Chapter 7 Liquidation, Subchapter**
3 **V of Chapter 11, Chapter 12 Family**
4 **Farmer's Debt Adjustment, and Chapter**
5 **13 Individual's Debt Adjustment Cases**

6 * * * * *

7 (b) CASES UNDER SUBCHAPTER V OF
8 CHAPTER 11, CHAPTER 12, AND CHAPTER 13
9 CASES. In a case under subchapter V of chapter 11, chapter
10 12, or chapter 13, ease no payment in an amount less than
11 \$15 shall be distributed by the trustee to any creditor unless
12 authorized by local rule or order of the court. Funds not
13 distributed because of this subdivision shall accumulate and
14 shall be paid whenever the accumulation aggregates \$15.
15 Any funds remaining shall be distributed with the final
16 payment.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. To avoid the undue cost and inconvenience

of distributing small payments, the title and subdivision (b) are amended to include subchapter V cases.

1 **Rule 3011. Unclaimed Funds in Cases Under Chapter**
2 **7 Liquidation, Subchapter V of Chapter**
3 **11, Chapter 12 Family Farmer's Debt**
4 **Adjustment, and Chapter 13 Individual's**
5 **Debt Adjustment Cases**

6 The trustee shall file a list of all known names and
7 addresses of the entities and the amounts which they are
8 entitled to be paid from remaining property of the estate that
9 is paid into court pursuant to § 347(a) of the Code.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The rule is amended to include such cases because § 347(a) of the Code applies to them.

1 **Rule 3014. Election Under § 1111(b) by Secured**
2 **Creditor in Chapter 9 Municipality or**
3 **Chapter 11 Reorganization Case**

4 An election of application of § 1111(b)(2) of the
5 Code by a class of secured creditors in a chapter 9 or 11 case
6 may be made at any time prior to the conclusion of the
7 hearing on the disclosure statement or within such later time
8 as the court may fix. If the disclosure statement is
9 conditionally approved pursuant to Rule 3017.1, and a final
10 hearing on the disclosure statement is not held, the election
11 of application of § 1111(b)(2) may be made not later than the
12 date fixed pursuant to Rule 3017.1(a)(2) or another date the
13 court may fix. In a case under subchapter V of chapter 11 in
14 which § 1125 of the Code does not apply, the election may
15 be made not later than a date the court may fix. The election
16 shall be in writing and signed unless made at the hearing on
17 the disclosure statement. The election, if made by the
18 majorities required by § 1111(b)(1)(A)(i), shall be binding
19 on all members of the class with respect to the plan.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* § 1181(b) of the Code, the rule is amended to provide a deadline for making an election under § 1111(b) in such cases that is set by the court.

1 **Rule 3016. Filing of Plan and Disclosure Statement in**
2 **a Chapter 9 Municipality or Chapter 11**
3 **Reorganization Case**

4 (a) IDENTIFICATION OF PLAN. Every
5 proposed plan and any modification thereof shall be dated
6 and, in a chapter 11 case, identified with the name of the
7 entity or entities submitting or filing it.

8 (b) DISCLOSURE STATEMENT. In a chapter
9 9 or 11 case, a disclosure statement, if required under § 1125
10 of the Code, or evidence showing compliance with § 1126(b)
11 shall be filed with the plan or within a time fixed by the
12 court, unless the plan is intended to provide adequate
13 information under § 1125(f)(1). If the plan is intended to
14 provide adequate information under § 1125(f)(1), it shall be
15 so designated, and Rule 3017.1 shall apply as if the plan is a
16 disclosure statement.

17 * * * * *

18 (d) STANDARD FORM SMALL BUSINESS
19 DISCLOSURE STATEMENT AND PLAN. In a small

20 business case or a case under subchapter V of chapter 11, the
21 court may approve a disclosure statement and may confirm
22 a plan that conform substantially to the appropriate Official
23 Forms or other standard forms approved by the court.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) of the rule is amended to reflect that under § 1181(b) of the Code, § 1125 does not apply to subchapter V cases (and thus a disclosure statement is not required) unless the court for cause orders otherwise. Subdivision (d) is amended to include subchapter V cases as ones in which Official Forms are available for a reorganization plan and, when required, a disclosure statement.

1 **Rule 3017.1. Court Consideration of Disclosure**
2 **Statement in a Small Business Case or in a**
3 **Case Under Subchapter V of Chapter 11**

4 (a) CONDITIONAL APPROVAL OF
5 DISCLOSURE STATEMENT. In a small business case or
6 in a case under subchapter V of chapter 11 in which the court
7 has ordered that § 1125 applies, the court may, on
8 application of the plan proponent or on its own initiative,
9 conditionally approve a disclosure statement filed in
10 accordance with Rule 3016. On or before conditional
11 approval of the disclosure statement, the court shall:

12 (1) fix a time within which the holders of
13 claims and interests may accept or reject the plan;

14 (2) fix a time for filing objections to the
15 disclosure statement;

16 (3) fix a date for the hearing on final
17 approval of the disclosure statement to be held if a
18 timely objection is filed; and

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19 (4) fix a date for the hearing on
20 confirmation.

21 * * * * *

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to cover such cases when the court orders that § 1125 of the Code applies.

1 **Rule 3017.2. Fixing of Dates by the Court in Subchapter**
2 **V Cases in Which There Is No Disclosure**
3 **Statement**

4 In a case under subchapter V of chapter 11 in which
5 § 1125 does not apply, the court shall:

6 (a) fix a time within which the holders of
7 claims and interests may accept or reject the plan;

8 (b) fix a date on which an equity security
9 holder or creditor whose claim is based on a security
10 must be the holder of record of the security in order
11 to be eligible to accept or reject the plan;

12 (c) fix a date for the hearing on
13 confirmation; and

14 (d) fix a date for transmitting the plan,
15 notice of the time within which the holders of claims
16 and interests may accept or reject it, and notice of the
17 date for the hearing on confirmation.

Committee Note

The rule is added in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No.

116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* § 1181(b) of the Code, the rule is added to authorize the court in such a case to act at a time other than when a disclosure statement is approved to set certain times and dates.

1 **Rule 3018. Acceptance or Rejection of Plan in a**
2 **Chapter 9 Municipality or a Chapter 11**
3 **Reorganization Case**

4 (a) ENTITIES ENTITLED TO ACCEPT OR
5 REJECT PLAN; TIME FOR ACCEPTANCE OR
6 REJECTION. A plan may be accepted or rejected in
7 accordance with § 1126 of the Code within the time fixed by
8 the court pursuant to Rule 3017, 3017.1, or 3017.2. Subject
9 to subdivision (b) of this rule, an equity security holder or
10 creditor whose claim is based on a security of record shall
11 not be entitled to accept or reject a plan unless the equity
12 security holder or creditor is the holder of record of the
13 security on the date the order approving the disclosure
14 statement is entered or on another date fixed by the court,
15 under Rule 3017.2, or fixed for cause, after notice and a
16 hearing. For cause shown, the court after notice and hearing
17 may permit a creditor or equity security holder to change or
18 withdraw an acceptance or rejection. Notwithstanding
19 objection to a claim or interest, the court after notice and

20 hearing may temporarily allow the claim or interest in an
21 amount which the court deems proper for the purpose of
22 accepting or rejecting a plan.

23 * * * * *

Committee Note

Subdivision (a) of the rule is amended to take account of the court's authority to set times under Rules 3017.1 and 3017.2 in small business cases and cases under subchapter V of chapter 11.

1 **Rule 3019. Modification of Accepted Plan in a**
2 **Chapter 9 Municipality or a Chapter 11**
3 **Reorganization Case**

4 * * * * *

5 (b) MODIFICATION OF PLAN AFTER
6 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If
7 the debtor is an individual, a request to modify the plan under
8 § 1127(e) of the Code is governed by Rule 9014. The request
9 shall identify the proponent and shall be filed together with
10 the proposed modification. The clerk, or some other person
11 as the court may direct, shall give the debtor, the trustee, and
12 all creditors not less than 21 days' notice by mail of the time
13 fixed to file objections and, if an objection is filed, the
14 hearing to consider the proposed modification, unless the
15 court orders otherwise with respect to creditors who are not
16 affected by the proposed modification. A copy of the notice
17 shall be transmitted to the United States trustee, together
18 with a copy of the proposed modification. Any objection to
19 the proposed modification shall be filed and served on the

20 debtor, the proponent of the modification, the trustee, and
21 any other entity designated by the court, and shall be
22 transmitted to the United States trustee.

23 (c) MODIFICATION OF PLAN AFTER
24 CONFIRMATION IN A SUBCHAPTER V CASE. In a
25 case under subchapter V of chapter 11, a request to modify
26 the plan under § 1193(b) or (c) of the Code is governed by
27 Rule 9014, and the provisions of this Rule 3019(b) apply.

Committee Note

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116-54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (c) is added to the rule to govern requests to modify a plan after confirmation in such cases under § 1193(b) or (c) of the Code.

1 **Rule 5005. Filing and Transmittal of Papers**

2 * * * * *

3 (b) TRANSMITTAL TO THE UNITED
4 STATES TRUSTEE.

5 (1) The complaints, notices, motions,
6 applications, objections and other papers required to
7 be transmitted to the United States trustee ~~by these~~
8 ~~rules shall be mailed or delivered to an office of the~~
9 ~~United States trustee, or to another place designated~~
10 ~~by the United States trustee, in the district where the~~
11 ~~case under the Code is pending~~ may be sent by filing
12 with the court's electronic-filing system in
13 accordance with Rule 9036, unless a court order or
14 local rule provides otherwise.

15 (2) The entity, other than the clerk,
16 transmitting a paper to the United States trustee other
17 than through the court's electronic-filing system
18 shall promptly file as proof of such transmittal a

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19 ~~verified~~ statement identifying the paper and stating
20 the manner by which and the date on which it was
21 transmitted to the United States trustee.

22 (3) Nothing in these rules shall require
23 the clerk to transmit any paper to the United States
24 trustee if the United States trustee requests in writing
25 that the paper not be transmitted.

Committee Note

Subdivision (b)(1) is amended to authorize the clerk or parties to transmit papers to the United States trustee by electronic means in accordance with Rule 9036, regardless of whether the United States trustee is a registered user with the court's electronic-filing system. Subdivision (b)(2) is amended to recognize that parties meeting transmittal obligations to the United States trustee using the court's electronic-filing system need not file a statement evidencing transmittal under Rule 5005(b)(2). The amendment to subdivision (b)(2) also eliminates the requirement that statements evidencing transmittal filed under Rule 5005(b)(2) be verified.

1 **Rule 7004. Process; Service of Summons, Complaint**

2 * * * * *

3 (i) SERVICE OF PROCESS BY TITLE. This
4 subdivision (i) applies to service on a domestic or foreign
5 corporation or partnership or other unincorporated
6 association under Rule 7004(b)(3) or on an officer of an
7 insured depository institution under Rule 7004(h). The
8 defendant's officer or agent need not be correctly named in
9 the address – or even be named – if the envelope is addressed
10 to the defendant's proper address and directed to the
11 attention of the officer's or agent's position or title.

Committee Note

New Rule 7004(i) is intended to reject those cases interpreting Rule 7004(b)(3) and Rule 7004(h) to require service on a named officer, managing or general agent or other agent, rather than use of their titles. Service to a corporation or partnership, unincorporated association or insured depository institution at its proper address directed to the attention of the “Chief Executive Officer,” “President,” “Officer for Receiving Service of Process,” “Managing Agent,” “General Agent,” “Officer,” or “Agent for Receiving Service of Process” (or other similar titles) is sufficient.

1 **Rule 8023. Voluntary Dismissal**

2 (a) STIPULATED DISMISSAL. The clerk of
3 the district court or BAP must dismiss an appeal if the parties
4 file a signed dismissal agreement specifying how costs are
5 to be paid and pay any court fees that are due.

6 (b) APPELLANT'S MOTION TO DISMISS.
7 An appeal may be dismissed on the appellant's motion on
8 terms agreed to by the parties or fixed by the district court or
9 BAP.

10 (c) OTHER RELIEF. A court order is required
11 for any relief under Rule 8023(a) or (b) beyond the dismissal
12 of an appeal—including approving a settlement, vacating an
13 action of the bankruptcy court, or remanding the case to it.

14 (d) COURT APPROVAL. This rule does not
15 alter the legal requirements governing court approval of a
16 settlement, payment, or other consideration.

Committee Note

The amendment is intended to conform the rule to the revised version of Appellate Rule 42(b) on which it was

modelled. It clarifies that the fees that must be paid are court fees, not attorney's fees. The rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration. *See, e.g.*, Fed. R. Bankr. P. 9019 (requiring court approval of compromise or settlement). The amendment clarifies that any order beyond mere dismissal—including approving a settlement, vacating or remanding—requires a court order.

Excerpt from the September 2021 Report of the Committee on Rules of Practice and Procedure

Agenda E-19
Rules
September 2021

REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:

* * * * *

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules and Form Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules recommended the following for final approval: * * * (2) proposed amendments to 12 rules, and a proposed new rule, in response to the Small Business Reorganization Act of 2019 (SBRA), Pub. L. 116-54, 133 Stat. 1079 (Aug. 26, 2019), (Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, 3018, 3019, and new Rule 3017.2); (3) proposed amendments to four additional rules (Rules 3002(c)(6), 5005, 7004, and 8023); and * * *. The proposed amendments were published for public comment in August 2020. * * *

* * * * *

The SBRA-related Rule Amendments

The interim rules that the Advisory Committee issued in response to the enactment of the Small Business Reorganization Act took effect as local rules or standing orders on February 19, 2020, the effective date of the Act. As part of the process of promulgating national rules

<p>NOTICE NO RECOMMENDATIONS PRESENTED HEREIN REPRESENT THE POLICY OF THE JUDICIAL CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.</p>

Excerpt from the September 2021 Report of the Committee on Rules of Practice and Procedure

governing cases under subchapter V of chapter 11, the amended and new rules were published for comment last summer, along with the SBRA-related form amendments.

The following rules were published for public comment:

- Rule 1007 (Lists, Schedules, Statements, and Other Documents; Time Limits);
- Rule 1020 (Chapter 11 Reorganization Case for Small Business Debtors);
- Rule 2009 (Trustees for Estates When Joint Administration Ordered);
- Rule 2012 (Substitution of Trustee or Successor Trustee; Accounting);
- Rule 2015 (Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status);
- Rule 3010 (Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13);
- Rule 3011 (Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13);
- Rule 3014 (Election Under § 1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case);
- Rule 3016 (Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case);
- Rule 3017.1 (Court Consideration of Disclosure Statement in a Small Business Case or in a Case Under Subchapter V of Chapter 11);
- new Rule 3017.2 (Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement);
- Rule 3018 (Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case); and
- Rule 3019 (Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case).

No comments were submitted on these SBRA-related rule amendments, and the Advisory Committee approved the rules as published.

Rules 3002(c)(6), 5005, 7004, and 8023

Rule 3002(c)(6) (Filing Proof of Claim or Interest). The rule currently requires a court to apply different standards to a creditor request to extend the deadline to file a claim depending on whether the creditor's address is foreign or domestic. The proposed amendment would create a uniform standard. Regardless of whether a creditor's address is foreign or domestic, the court could grant an extension if it finds that the notice was insufficient under the circumstances to

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give that creditor a reasonable time to file a proof of claim. There were no comments, and the Advisory Committee approved the proposed amendment as published.

Rule 5005 (Filing and Transmittal of Papers). The proposed amendment would allow papers required to be transmitted to the United States trustee to be sent by filing with the court's electronic filing system, and would dispense with the requirement of proof of transmittal when the transmittal is made by that means. The amendment would also eliminate the requirement for verification of the statement that provides proof of transmittal for papers transmitted other than through the court's electronic-filing system. The only comment submitted noted an error in the redlining of the published version, but it recognized that the committee note clarified the intended language. With that error corrected, the Advisory Committee approved the proposed amendment.

Rule 7004 (Process; Service of Summons, Complaint). The amendment adds a new subdivision (i) to make clear that service under Rules 7004(b)(3) or (h) may be made on an officer, managing or general agent, or other agent by use of their titles rather than their names. Although no comments were submitted, the Advisory Committee deleted a comma from the text of the proposed amendment and modified the committee note slightly by changing the word "Agent" to "Agent for Receiving Service of Process." The Advisory Committee approved the proposed amendment as revised.

Rule 8023 (Voluntary Dismissal). The proposed amendment to Rule 8023 would conform the rule to the pending proposed amendment to Appellate Rule 42(b) (discussed earlier in this report). The amendment would clarify, inter alia, that a court order is required for any

Excerpt from the September 2021 Report of the Committee on Rules of Practice and Procedure

action other than a simple voluntary dismissal of an appeal. No comments were submitted, and the Advisory Committee approved the proposed amendment as published.

* * * * *

The Standing Committee unanimously approved the Advisory Committee's recommendations.

Recommendation: That the Judicial Conference:

- a. Approve the proposed amendments to Bankruptcy Rules 1007, 1020, 2009, 2012, 2015, 3002, 3010, 3011, 3014, 3016, 3017.1, 3018, 3019, 5005, 7004, and 8023, and new Rule 3017.2 . . . and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

* * * * *

Respectfully submitted,



John D. Bates, Chair

Jesse M. Furman	Carolyn B. Kuhl
Daniel C. Girard	Patricia A. Millett
Robert J. Giuffra, Jr.	Lisa O. Monaco
Frank M. Hull	Gene E.K. Pratter
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Excerpt from the May 24, 2021 Report of the Advisory Committee on Bankruptcy Rules

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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MEMORANDUM

TO: Honorable John D. Bates, Chair
Standing Committee on Rules of Practice and Procedure

FROM: Honorable Dennis R. Dow, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 24, 2021

I. Introduction

The Advisory Committee on Bankruptcy Rules met by videoconference on April 8, 2021. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee gave its final approval to rule and form amendments that were published for comment last August. They consist of amendments to *** ** (2) thirteen rules ***** that would implement the Small Business Reorganization Act of 2019 ("SBRA"); and (3) four additional rules. *****

Part II of this report presents those action items. They are organized as follows:

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A. Items for Final Approval

Rules * * * * * published for comment in August 2020—

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- Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, new Rule 3017.2, 3018, and 3019 (in response to SBRA);
- Rule 3002(c)(6);
- Rule 5005;
- Rule 7004;
- Rule 8023; and
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II. Action Items

A. Items for Final Approval

The Advisory Committee recommends that the Standing Committee approve the proposed rule and form amendments that were published for public comment in August 2020 and are discussed below. Bankruptcy Appendix A includes the rules and form that are in this group.

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Action Item 2. SBRA Rules. The interim rules that the Advisory Committee issued in response to the enactment of the Small Business Reorganization Act took effect as local rules or standing orders on February 19, 2020, the effective date of the Act. As part of the process of promulgating national rules governing cases under subchapter V of chapter 11, the amended and new rules were published for comment last summer, along with the SBRA form amendments.

The following rules were published:

- **Rule 1007** (Lists, Schedules, Statements, and Other Documents; Time Limits),
- **Rule 1020** (Small Business Chapter 11 Reorganization Case),
- **Rule 2009** (Trustees for Estates When Joint Administration Ordered),
- **Rule 2012** (Substitution of Trustee or Successor Trustee; Accounting),
- **Rule 2015** (Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status),
- **Rule 3010** (Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13),
- **Rule 3011** (Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12; and Chapter 13),

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- **Rule 3014** (Election Under § 1111(b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case),
- **Rule 3016** (Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case),
- **Rule 3017.1** (Court Consideration of Disclosure Statement in a Small Business Case),
- **new Rule 3017.2** (Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement),
- **Rule 3018** (Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case), and
- **Rule 3019** (Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case).

No comments were submitted on the SBRA rules in response to publication, and the Advisory Committee gave final approval to the rules as published.

It should be noted that one of the interim SBRA rules, Rule 1020, was amended—also on an interim basis—in response to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which took effect on March 27, 2020. The CARES Act modified the definition of “debtor” in § 1182(1) of the Bankruptcy Code for determining eligibility to proceed under subchapter V of chapter 11. The CARES Act also amended § 103(i) to provide that subchapter V of chapter 11 applies to a “debtor (as defined in section 1182(1))” who elects such treatment, rather than a “small business debtor” who so elects. These changes necessitated amending Interim Rule 1020 to add references to “a debtor as defined in § 1182(1) of the Code.”

Under the CARES Act, the definition of “debtor” in § 1182(1) was to revert to its prior version one year after the effective date of the CARES Act, that is, on March 27, 2021. For that reason, the pre-CARES Act version of Interim Rule 1020 was published for comment. Congress acted in March of this year to extend the sunset date in the CARES Act to March 27, 2022. Nevertheless, the published version of Rule 1020 is still the appropriate one to be finally approved because by the time it goes into effect—December 1, 2022—the CARES Act definition will likely have expired.

Action Item 3. Rule 3002(c)(6) (Filing Proof of Claim or Interest). The amendments would make uniform the standard for seeking bar date extensions by both domestic and foreign creditors. In both situations, the court could grant an extension if it found that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim. There were no comments on the proposed amendments, and the Advisory Committee approved them as published.

Action Item 4. Rule 5005 (Filing and Transmittal of Papers). The amendments would allow papers required to be transmitted to the United States trustee to be sent electronically and would eliminate the requirement for filing a verified statement for papers transmitted other than electronically. The only comment submitted in response to publication was one that noted an error in the redlining of the published version, but it recognized that the Committee Note clarified the intended language. With that error corrected, the Advisory Committee approved the amendments.

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Action Item 5. Rule 7004 (Process; Service of Summons, Complaint). The amendments add a new subdivision (*i*) to make clear that service under Rule 7004(b)(3) or Rule 7004(h) may be made on an officer, managing or general agent, or other agent by use of their titles rather than their names. No comments were submitted in response to publication of the proposed amendments. The Advisory Committee deleted one comma from the text of proposed Rule 7004(*i*) and made one modification to the Committee Note, changing the word “Agent” to “Agent for Receiving Service of Process,” before approving the amendments.

Action Item 6. Rule 8023 (Voluntary Dismissal). Rule 8023 was proposed for amendment to conform to pending amendments to Fed. R. App. P. 42(b). The amendments are intended to clarify that a court order is required for any action other than a simple voluntary dismissal. No comments were submitted in response to publication of the proposed amendments, and the Advisory Committee approved them as published.

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